

**IN THE COURT OF APPEALS  
FIRST APPELLATE DISTRICT OF OHIO  
HAMILTON COUNTY, OHIO**

STATE OF OHIO,	:	APPEAL NO. C-150622
	:	TRIAL NO. B-9106529
Plaintiff-Appellee,	:	
vs.	:	<i>JUDGMENT ENTRY.</i>
DARRELL W. STEPHENS,	:	
Defendant-Appellant.	:	

We consider this appeal on the accelerated calendar, and this judgment entry is not an opinion of the court. *See* Rep.Op.R. 3.1; App.R. 11.1(E); 1st Dist. Loc.R. 11.1.1.

Defendant-appellant Darrell W. Stephens presents on appeal three assignments of error that, distilled to their essence, challenge the Hamilton County Common Pleas Court’s judgment overruling his Crim.R. 32.1 motion to withdraw his guilty pleas. We affirm the court’s judgment.

Stephens was convicted in 1992 upon guilty pleas to felonious sexual penetration and rape. He did not appeal his convictions. He instead challenged his convictions by filing with the common pleas court a motion for a new trial in 1994, a petition for postconviction relief in 1996, and a motion to vacate his guilty pleas in 2002. *See State v. Stephens*, 1st Dist. Hamilton No. C-020683 (Nov. 21, 2003).

In 2004, Stephens was classified as a sexually oriented offender under the version of R.C. Chapter 2950, Ohio’s sex-offender-classification statutes, in effect from 1996 to 2007 (“Megan’s Law”). Am.Sub.H.B. No. 180, 146 Ohio Laws, Part II, 2560,

amended in 2003 by Am.Sub.S.B. No. 5, 150 Ohio Laws, Part IV, 6556. On appeal from his sexually-oriented-offender classification, we affirmed. *State v. Stephens*, 1st Dist. Hamilton No. C-040810 (Oct. 12, 2005). And we affirmed his subsequent convictions for violating Megan's Law's registration requirements. *State v. Stephens*, 1st Dist. Hamilton Nos. C-130285, C-130286 and C-130287 (May 14, 2014).

In 2015, Stephens filed a second motion to withdraw his 1992 guilty pleas. He asserted that the notifications of registration duties sent to him by the Hamilton County Sheriff's Office beginning in April 2011 effectively imposed upon him the punitive registration requirements of the current version of R.C. Chapter 2950, 2007 Am.Sub.S.B. No. 10 ("Adam Walsh Act"). He argued that his guilty pleas had not been knowing or intelligent, when the trial court failed, as required by Crim.R. 11(C)(2)(b), to inform him of that punitive consequence before accepting his guilty pleas, and that the retroactive application of the Adam Walsh Act breached his plea agreement and violated the protections against double jeopardy and retroactive laws secured under Article I, Section 10, and Article II, Section 28, of the Ohio Constitution.

These claims fail in their underlying premise, because Stephens was, by operation of law, and he remains, a sexually oriented offender subject to the registration requirements of Megan's Law, not the Adam Walsh Act. *See Stephens*, 1st Dist. Hamilton Nos. C-130285, C-130286 and C-130287; *Stephens*, 1st Dist. Hamilton No. C-040810. Megan's Law was remedial, not punitive. *State v. Cook*, 83 Ohio St.3d 404, 417-423, 700 N.E.2d 570 (1998). Consequently, Crim.R. 11(C)(2)(b) was not implicated. *See State v. Rodgers*, 1st Dist. Hamilton No. C-970597, 1998 WL 515966, \*2 (Aug. 21, 1998). And the constitutional protections against double jeopardy and retroactive laws did not bar retroactive application of Megan's Law to Stephens based on his 1992 convictions. *State v. Williams*, 88 Ohio St.3d 513, 528, 728 N.E.2d 342

(2000); *Cook* at paragraph one of the syllabus. Finally, the doctrine of the law of the case precluded the common pleas court from granting Stephens relief under Crim.R. 32.1 based on his breach-of-plea-agreement and retroactivity claims, because we addressed and rejected those claims in Stephens's appeals from his 2004 sexually-oriented-offender classification and his subsequent convictions for violating Megan's Law's registration requirements. *See Nolan v. Nolan*, 11 Ohio St.3d 1, 3, 462 N.E.2d 410 (1984) (holding that "the decision of a reviewing court in a case remains the law of that case on the legal questions involved for all subsequent proceedings in the case at both the trial and reviewing levels").

Thus, we can only concur with the common pleas court's conclusion, implicit in its judgment overruling Stephens's Crim.R. 32.1 motion, that he failed to sustain his burden of demonstrating that withdrawing his pleas was necessary to correct a manifest injustice. *See* Crim.R. 32.1; *State v. Smith*, 49 Ohio St.2d 261, 361 N.E.2d 1324 (1977), paragraph one of the syllabus. We, therefore, hold that the common pleas court did not abuse its discretion in overruling the motion without a hearing. *See Smith* at paragraph two of the syllabus; *State v. Brown*, 1st Dist. Hamilton No. C-010755, 2002-Ohio-5813. Accordingly, we overrule the assignments of error and affirm the court's judgment.

A certified copy of this judgment entry constitutes the mandate, which shall be sent to the trial court under App.R. 27. Costs shall be taxed under App.R. 24.

**MOCK, P.J., CUNNINGHAM and MYERS, JJ.**

To the clerk:

Enter upon the journal of the court on April 28, 2017  
per order of the court \_\_\_\_\_.  
Presiding Judge